

directed to the rechargeable battery (see brief description of drawings). Neither of these figures discloses a "portable battery powered utilization device" as claimed by Applicant. MPEP 2131 states that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Thus, Lemelson cannot anticipate claim 1 for this reason alone.

Nevertheless, Applicant has amended claim 1 to clarify certain features of Applicant's invention. Claim 1 now recites a removable battery pack, and that the portable battery powered utilization device and removable battery pack each have a plurality of conductors. Claim 1 also now recites that the utilization device is adapted to receive the removable battery pack in an assembled relationship wherein the plurality conductors of the removable battery pack and utilization device contact to provide at least power and communication paths between the removable battery pack and utilization device for supplying operating power and battery data from the removable battery pack to the utilization device. Claim 1 now further recites that the removable battery pack and the utilization device together are of size and weight to be carried by an individual person. Applicant submits that these features are not disclosed by Lemelson. Applicant believes that claim 1 is allowable over Lemelson.

Claims 2-5 presently stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lemelson in view of Norton or Hanson et al. or Stewart further in view of Fernandez. MPEP 2142 states that a number of criteria must be met to establish a *prima facie* case of obviousness, one of which is that the prior art reference or references when combined must teach or suggest all the claim limitations. As discussed above, Lemelson lacks certain limitations of Applicant's amended claim 1. Claims 2-5 are dependent on amended claim 1

and add further limitations to that claim. Thus, Applicant believes that claims 2-5 are allowable for the same reasons as set forth above with respect to amended claim 1.

Claim 1 presently stands rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 4,553,081.

Claims 2-5 also presently stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 4,553,081 in view of Norton or Hanson et al. or Stewart further in view of Fernandez. Applicant submits herewith a terminal disclaimer with respect to U.S. Patent No. 4,553,081, thereby removing that patent as a reference. Applicant therefore believes that the obviousness-type double patenting rejections of claims 1 and 2-5 have been overcome.

Applicant also submits new claims 6-10 which are similar in many respects to amended claim 1. Applicant believes that these new claims are allowable over the Examiner's rejections for the same reasons as set forth above with respect to amended claim 1.

Applicant additionally submits herewith a 1449 form and a copy of the references listed thereon as an information disclosure statement. Applicant became aware of these additional references after the mailing of the March 19, 1998 Office Action. Applicant believes claims 1-10 are allowable over these additional references for at least the same reasons set forth above. Applicant encloses a check including the amount of \$240.00 pursuant to 37 C.F.R. §1.17(p).

Applicant further submits herewith a Request for a One-Month Extension of Time to respond to the March 19, 1998 Office Action. The enclosed check includes the amount of \$110.00 to cover the associated fee.

Finally, Applicant acknowledges with appreciation the Examiner's characterization of the references in the March 19, 1998 Office Action. However, Applicant does not agree or disagree with those characterizations.

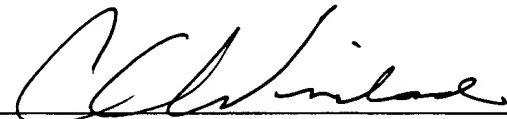
Applicant believes claims 1-10 are in condition for allowance. If the Examiner disagrees or has any questions regarding this submission, Applicant respectfully requests that the Examiner telephone the undersigned at (312) 707-8889.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Dated: 20 July, 1998

By



Christopher C. Winslade
Reg. No. 36,308

McAndrews, Held & Malloy, Ltd.
500 W. Madison Street - Ste. 3400
Chicago, Illinois 60661
(312) 707-8889